

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGELIO MAY RUIZ,

Plaintiff,

v.

M. STANE, ET. AL.,

Defendants.

Case No. 1:22-cv-00236-DAD-HBK (PC)

ORDER RECALLING AMENDED
FINDINGS AND RECOMMENDATIONS;
STRIKING COMPLAINT; AND DIRECTING
PLAINTIFF TO FILE AN AMENDED
COMPLAINT IN ENGLISH

(Doc. No. 10)

This matter comes before the Court upon periodic review of the file. Plaintiff initiated this action by filing a *pro se* prisoner civil rights complaint under 42 U.S.C. § 1983 in the Sacramento Division of this Court. (Doc. No. 1). The Sacramento Division transferred the case to this court on February 25, 2022. (Doc. No. 4).

On April 14, 2022, the undersigned issued Amended Findings and Recommendations recommending the district court judge dismiss this action due to Plaintiff's failure to either timely apply to proceed *in forma pauperis* or pay the requisite filing fee. (Doc. No. 10). The Amended Findings and Recommendations permitted Plaintiff a fourteen-day objection period. (*Id.* at 1, 4). During the objection period, Plaintiff filed a motion to proceed *in forma pauperis*. (Doc. Nos. 13, 16). Accordingly, the undersigned recalls the Amended Findings and Recommendations since Plaintiff has applied to proceed *in forma pauperis*.

Plaintiff's complaint is written in entirely in Spanish, although the handwritten exhibits

attached to the complaint are written in English. (*See* Doc. No. 1 at 1-10; 13-15, 18). The Court has previously informed Plaintiff all filings in federal court must be in the English language. *See e.g. Ruiz v. Mobert*, Case No. 1:17-cv-709-AWI-BAM (E.D. Cal. 2017)((Doc. No. 18) striking the complaint and directing Plaintiff to file complaint written in English); *Ruiz v. Curry*, Case No. 1:17-cv-1454-DAD-SAB (E.D. Cal. 2017)((Doc. No. 11) directing Plaintiff to file an amended complaint because the complaint was written in both English and Spanish); *Ruiz v. Woodfill*, Case No. 2:19-cv-2118-MCE-KJN, 2021 WL 1060141, at *1-*2 (E.D. Cal. March 18, 2021)(noting a number of cases Plaintiff has been advised to file pleadings written in English and further providing documentation that Plaintiff falsely alleges he cannot write or understand English). Plaintiff has filed pleadings and complaints in English at times. (*Id.* at *2)(citing *Ruiz v. Orozco*, No. 1:19-cv-0048-AWI-GSA (E.D. Cal.)(noting Plaintiff filed his initial complaint in English with no notation he was assisted by another prisoner); *Ruiz v. Sadler*, Case NO. 2:19-cv-147EFBN (E.D. Cal.)(same)); *Ruiz v. Woodfill*, Case No. 2:20-cv-205-KJM-AC, 2021 WL 606255, at *1 (E.D. Cal. Jan. 28, 2021)(reviewing motion for reconsideration and advising Plaintiff he must file pleadings in English). The Court cannot provide Plaintiff with translated documents, nor will it translate his documents from Spanish into English.

Prison officials have discretion how to ensure that “inmates with language problems have a reasonably adequate opportunity to file nonfrivolous legal claims challenging their convictions or conditions of confinement.” *Lewis v. Casey*, 518 U.S. 343, 356, 116 S. Ct. 2174, 2182, 135 L. Ed. 2d 606 (1996). The use of jailhouse lawyers is one recognized avenue available to ensure that non-English speaking and/or illiterate inmates have meaningful access to the courts. *Id.* at 356-57. If appropriate, Plaintiff may seek assistance at his institution for translation services.

Accordingly, it is **ORDERED**:

1. The Amended Findings and Recommendations (Doc. No. 10) are RECALLED.
2. The Clerk of Court shall strike Plaintiff’s complaint (Doc. No. 1) because it is not written in the English language;
3. The Clerk of Court shall send to Plaintiff a civil rights complaint;
4. Within **thirty (30) days** from the date of receiving this order, Plaintiff shall file an

1 “amended complaint” in English; and

2 5. Plaintiff is warned that the failure to comply with this order will result in a
3 recommendation that this case be dismissed for failure to comply with a court order and/or failure
4 to prosecute this action.

5
6 Dated: May 3, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE